



PUBLIC NOTICE

Federal Communications Commission
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DA 10-96

Released: January 19, 2010

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST
FOR WAIVER FILED BY THE CITY OF SUMMIT, NEW JERSEY, TO ADD PART 22
FREQUENCIES 476.1625 AND 479.1625 MHZ TO ITS PUBLIC SAFETY RADIO SYSTEM**

File No. 0003734540

Comment Date: February 8, 2010

Reply Comment Date: February 18, 2010

The Public Safety and Homeland Security Bureau seeks comment on the application and waiver request, initially filed on February 10, 2009, and subsequently amended on September 18, 2009, by the City of Summit, New Jersey ("Summit").¹ Summit seeks waiver relief pursuant to Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, to use, for public safety communications purposes, two frequencies designated for different uses under Part 22 of the Commission's rules. Specifically, Summit, which currently is authorized to operate on Part 22 frequencies, 476/479.0375, 476/479.1375, 476/479.1875 and 476/479.2125 MHz, requests authorization to add frequency 476.1625, which is designated for point-to multipoint use,² and 479.1625 MHz, which is designated for trunked mobile operations.³ Conditional to a grant of its request, Summit also seeks to relinquish frequency pair 476/479.2125 MHz.

Summit currently operates a public safety radio communications system using four frequency pairs from the Part 22 spectrum allocation in the 470-512 MHz band under call sign WQDR764. The Wireless Telecommunications Bureau authorized use of Summit's current Part 22 channels by waiver granted in 2005⁴ pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c). One of these channels, 476/479.2125 MHz, is co-channel with respect to the County of Westchester, New York, ("Westchester"), which is authorized use of the channel under call sign WQBR539. Summit indicates that subsequent to the *2005 Order*, Westchester filed an application (currently pending) to "improve its existing facilities by increasing powers and antenna heights," which Summit opposed.⁵

¹ See File No. 0003734540 (filed Feb. 10, 2009, and amended on Sept. 18, 2009) and associated "Request For Waiver of Sections 20.9(a)(6), 22.621, and 22.651 of the FCC Rules and Regulations" (Waiver Request).

² See 47 C.F.R. § 22.621.

³ See 47 C.F.R. § 22.651.

⁴ See City of Summit, New Jersey, *Order*, 20 FCC Rcd 16181 (WTB PSCID 2005) (*2005 Order*).

⁵ Waiver Request at 2. Westchester's application was filed on April 30, 2007. See File No. 0003046341. Summit filed an opposition to the application on June 21, 2007. See *id.*

According to Summit, “even before the requested increases, interference was a real possibility for Summit,” but that “[w]ith the requested increases, interference to Summit becomes more of a possibility and concern.”⁶ Summit indicates that it has worked with Westchester to find a mutually agreeable solution under which Summit would substitute 476/479.1625 MHz for 476/479.2125 MHz, thus resolving any co-channel interference concerns while ensuring that Summit would retain four Part 22 channels.⁷

Summit indicates that there is only one licensee in the New York/New Jersey area licensed on 476.1625 MHz, USA Mobility Wireless, Inc. (“USAM”), under call sign KPD955, and that USAM’s site is located 75.3 km from Summit’s site.⁸ USAM submitted a Letter of Consent, indicating no objection to Summit’s request.⁹

Summit seeks waivers of Sections 20.9(a)(6), 22.621, and 22.651 of the Commission’s rules, 47 C.F.R. §§ 20.9(a)(6), 22.621 and 22.651, pursuant to Section 1.925 of the Commission’s rules, 47 C.F.R. § 1.925.¹⁰ Summit asserts that the Commission “has already found it in the public interest to allow Summit to operate on Part 22 channels due to frequency congestion in the New York/New Jersey area” in the *2005 Order*.¹¹ Summit further argues that the “potential for interference between Westchester and Summit leaves no reasonable alternative except substitution of the channel at Summit,” and that granting its request would “resolve[] the interference concerns and is in the public interest.”¹² Summit also observes that, because it would relinquish frequency pair 476/479.2125 MHz as a condition of obtaining authorization to use frequencies 476.1625 and 479.1625 MHz, its request “supports the [2005 Order] in that Summit will continue to have use of four Part 22 channels.”¹³ We seek comment on Summit’s request.

Pursuant to Sections 1.415 and 1.419 of the Commission’s rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this *Public Notice*. All comments and reply comments should reference the subject Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically by accessing the applicant’s file number(s) in the Commission’s Universal Service Licensing System (ULS),¹⁴ or (2) by filing paper copies.

⁶ Waiver Request at 2. Summit attached a contour study that shows an overlap between Westchester’s and Summit’s existing service contours. See Waiver Request, Attachment One.

⁷ *Id.*

⁸ *Id.* at 3. Summit indicates that the co-channel licensee operating under call sign KPD955 is Arch Wireless License Co, LLC (“Arch”). We observe, however, that Arch was a subsidiary of USA Mobility, Inc., which in 2008 changed the licensee name of record for call sign KPD955 to USA Mobility Wireless, Inc.

⁹ The Letter of Consent was submitted by Arch Wireless License Co, LLC, as a subsidiary of USA Mobility, Inc., before USA Mobility, Inc. changed the licensee name of record for call sign KPD955 to USA Mobility Wireless, Inc.

¹⁰ Waiver Request at 4.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 5.

¹⁴ See “Wireless Telecommunications Bureau Enhances the Commission’s Universal Licensing System to Implement Electronic Filing for Pleadings,” *Public Notice*, 21 FCC Rcd 424 (WTB 2006). See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

- Electronic Filers: Pleadings may be submitted electronically as follows:

From the ULS website at <http://wireless.fcc.gov/uls/>, begin the process of submitting a pleading by clicking on the “ULS Pleadings” link in the menu on the lower left side of the ULS web page. The link will take you to the “*Pleading Information*” screen for “Non-docketed Pleadings” where you select “Reply” in the drop-down window for the type of pleading and then enter the pleadings filer information. Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: “*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party.*”¹⁵ Click on “CONTINUE.”

The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the “SUBMIT” button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.

The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The “BROWSE” button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the “ADD ATTACHMENT” button to upload your pleading. You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also have the opportunity to delete any selected file from the pleading.

Finally, to complete your electronic pleading submission, click on the “SUBMIT PLEADING” button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application and License Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2, or (888) 225-5322 and select Option 2, or (717) 338-2888. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to FCC ULS Customer Support Center are recorded.

- Paper Filers: Parties who choose to file by paper must submit an original and four copies of each filing.

¹⁵ See 47 C.F.R. Part 1.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE is permanently closed.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

The application, waiver request, and comments and reply comments can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, DC 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to these Applications, it is in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed, but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Mr. David Munson of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2921 (voice), (202) 418-7233 (tty), or via e-mail to David.Munson@fcc.gov.

By the Chief, Public Safety and Homeland Security Bureau.

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